

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--------------------------------|---|--------------------------------------|
| - - - - - | X | |
| | : | |
| UNITED STATES OF AMERICA | : | <u>SEALED SUPERSEDING INDICTMENT</u> |
| | : | |
| - v. - | : | S1 19 Cr. 497 |
| | : | |
| SHMIEL WEINGARTEN, | : | |
| YOIL WEINGARTEN a/k/a "YOLE | : | |
| WEINGARTEN," a/k/a "YOEL | : | |
| WEINGARTEN," | : | |
| YAKOV WEINGARTEN a/k/a "YAAKOV | : | |
| WEINGARTEN," a/k/a "YANKEV | : | |
| NUCHEM WEINGARTEN," and | : | |
| MORDECHAY MALKA, | : | |
| | : | |
| Defendants. | : | |
| | : | |
| - - - - - | X | |

COUNT ONE

(Conspiracy to Kidnap, Unlawfully Use a Means of Identification,
and Enter by False Pretenses The Secure Area of an Airport)

The Grand Jury charges:

1. From at least on or about December 5, 2018 up to and including at least on or about March 25, 2019, SHMIEL WEINGARTEN, YOIL WEINGARTEN a/k/a "YOLE WEINGARTEN," a/k/a "YOEL WEINGARTEN," YAKOV WEINGARTEN a/k/a "YAAKOV WEINGARTEN," a/k/a "YANKEV NUCHEM WEINGARTEN," and MORDECHAY MALKA, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, international parental kidnapping, in violation of Title 18, United States Code, Section 1204, unlawful transfer, possession,

and use of a means of identification, in violation of Title 18, United States Code, Section 1028(a)(7), and entry by false pretenses to any secure area of any airport, in violation of Title 18, United States Code, Section 1036.

2. It was a part and object of the conspiracy that SHMIEL WEINGARTEN, YOIL WEINGARTEN, YAKOV WEINGARTEN, and MORDECHAY MALKA, the defendants, and others known and unknown, would and did remove and retain two children, Minor-1 and Minor-2, who had been in the United States, outside the United States, with intent to obstruct the lawful exercise of parental rights, in violation of Title 18, United States Code, Section 1204.

3. It was a part and object of the conspiracy that an unnamed co-conspirator ("Co-Conspirator-1") and others known and unknown, would and did knowingly transfer, possess, and use, in and affecting interstate and foreign commerce, without lawful authority, a means of identification of another person, knowing that the means of identification belonged to another actual person, with the intent to commit, and to aid and abet, and in connection with any unlawful activity that constitutes a violation of Federal law or that constitutes a felony under any applicable State or local law, to wit, on or about December 8, 2018, Co-Conspirator-1 used his own children's identities to unlawfully evade airport security by pretending that Minor-1 and Minor-2 were his children, in order to unlawfully remove Minor-1

and Minor-2 from the United States, with intent to obstruct the lawful exercise of parental rights, all in violation of Title 18, United States Code, Section 1028(a)(7).

4. It was a part and object of the conspiracy that Co-Conspirator-1 and others known and unknown, would and did, by fraud and false pretense, enter and attempt to enter any secure area of any airport, with intent to commit a felony, to wit, on or about December 8, 2018, Co-Conspirator-1 fraudulently portrayed Minor-1 and Minor-2 as his own children in order to enter the secure area of Wilkes Barre Scranton International Airport, in order to unlawfully remove Minor-1 and Minor-2 from the United States, with intent to obstruct the lawful exercise of parental rights, all in violation of Title 18, United States Code, Section 1036.

Overt Acts

5. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about December 5, 2018, an unnamed co-conspirator ("Co-Conspirator-2") rented a car for the purpose of transporting Minor-1 and Minor-2.

b. On or about December 5, 2018, an unnamed co-conspirator ("Co-Conspirator-3") and other co-conspirators drove

to a retail store to purchase clothing that Minor-1 and Minor-2 could wear during the kidnapping to hide that they were ultra-Orthodox Jews.

c. On or about December 8, 2018, SHMIEL WEINGARTEN, the defendant, took Minor-1 and Minor-2 away from the residence in the Village of Woodridge, Sullivan County, New York, where they were staying with their mother, and brought them to a hotel.

d. On or about December 8, 2018, Conspirator-1 used his own children's identities to allow Minor-1 and Minor-2 to enter the secure area of an airport, board an aircraft, and—ultimately—to leave the United States.

e. On or about December 7, 8, 9, and 19, 2018, an unnamed co-conspirator ("Co-Conspirator-4") sent money to a co-conspirator via Google Pay in order to facilitate the removal and retention of Minor-1 and Minor-2.

f. On or about December 16, 2018, an unnamed co-conspirator ("Co-Conspirator-5"), called another unnamed co-conspirator ("Co-Conspirator-6") to convince him to come to Mexico to evade law enforcement.

g. On at least four occasions in or about March 2019, an unnamed co-conspirator ("Co-Conspirator-7") provided Minor-2 with cellular telephones in order to facilitate her removal and retention.

(Title 18, United States Code, Section 371.)

COUNT TWO

(International Parental Kidnapping)

The Grand Jury further charges:

6. From at least on or about December 8, 2018 up to and including at least on or about December 27, 2018, SHMIEL WEINGARTEN, YOIL WEINGARTEN a/k/a "YOLE WEINGARTEN," a/k/a "YOEL WEINGARTEN," YAKOV WEINGARTEN a/k/a "YAAKOV WEINGARTEN," a/k/a "YANKEV NUCHEM WEINGARTEN," and MORDECHAY MALKA, the defendants, did remove and retain a child, who had been in the United States, outside the United States, with intent to obstruct the lawful exercise of parental rights, to wit, SHMIEL WEINGARTEN, YOIL WEINGARTEN, YAKOV WEINGARTEN, and MORDECHAY MALKA removed and retained a child ("Minor-1") outside the United States and away from his mother, who was lawfully in custody of Minor-1, and aided and abetted the same.

(Title 18, United States Code, Sections 1204(a) and 2.)

COUNT THREE

(International Parental Kidnapping)

The Grand Jury further charges:

7. From at least on or about December 8, 2018 up to and including at least on or about December 27, 2018, SHMIEL WEINGARTEN, YOIL WEINGARTEN a/k/a "YOLE WEINGARTEN," a/k/a "YOEL

WEINGARTEN," YAKOV WEINGARTEN a/k/a "YAAKOV WEINGARTEN," a/k/a "YANKEV NUCHEM WEINGARTEN," and MORDECHAY MALKA, the defendants, did remove and retain a child, who had been in the United States, outside the United States, with intent to obstruct the lawful exercise of parental rights, to wit, SHMIEL WEINGARTEN, YOIL WEINGARTEN, YAKOV WEINGARTEN, and MORDECHAY MALKA removed and retained a child ("Minor-2") outside the United States and away from her mother, who was lawfully in custody of Minor-2, and aided and abetted the same.

(Title 18, United States Code, Sections 1204(a) and 2.)

COUNT FOUR

(International Parental Kidnapping)

The Grand Jury further charges:

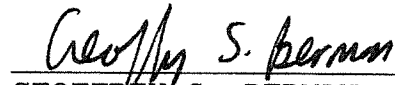
8. From at least on or about March 15, 2019 up to and including at least on or about March 25, 2019, YAKOV WEINGARTEN a/k/a "YAAKOV WEINGARTEN," a/k/a "YANKEV NUCHEM WEINGARTEN," the defendant, did attempt to remove and retain a child, who had been in the United States, outside the United States, with intent to obstruct the lawful exercise of parental rights, to wit, YAKOV WEINGARTEN aided and abetted an attempt to remove and retain Minor-2 outside the United States and away from her mother, who was

lawfully in custody of Minor-2.

(Title 18, United States Code, Sections 1204(a) and 2.)



FOREPERSON



GEOFFREY S. BERMAN
United States Attorney